

ORIGINAL

HARRY W. JESSUP
HELEN B. JESSUP
2009 West Lund
Las Vegas, NV 89102
(702) 876-5144
In Proper Person

RECEIVED
AND FILED
JUN 12 2007
U.S. BANKRUPTCY COURT
PATRICIA J. GRAY
CLERK

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE COMPANY
Debtor.

) Case No. BK-S-06-10725 LBR
) Case No. BK-S-06-10726 LBR
) Case No. BK-S-06-10727 LBR
) Case No. BK-S-06-10728 LBR
) Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

) **Chapter 11**

In re:
USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,
Debtor.

) Jointly Administered Under
) Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC.,
Debtor.

) **JESSUPS' MOTION**
) **TO DISCLOSE**
) **INFORMATION UNDER**
) **THE FREEDOM OF**
) **INFORMATION ACT**
) **AND RELEASE OF**
) **FUNDS TO JESSUPS**

In re:
USA SECURITIES, LLC.,
Debtor.

Affects:
ALL DEBTORS

) **(ALL DEBTORS)**

Date: 7-5-07
Time: 9:30

COMES NOW, HARRY JESSUP and HELEN JESSUP, in Proper Person, and
files this Motion, requesting as follows:

1. That the court order the release of information under the Freedom of
Information Act.

2. That the court order the release of the IRA funds of the JESSUPS.

///

///

///

pretenses and under fraud, and as such ALL funds should be reimbursed.

Dated this 12 day of Nov, 2007.

HARRY JESSUP

HELEN JESSUP

FACTS/HISTORY

retirees, and senior citizens. They invested their IRAs, together with their savings, with the USA CAPITAL, beginning in 2003, and investment of the IRAs in 2005. Thus, they invested all the monies they had saved over their lifetime.

which have a certain level of security. Of course, at this time, it has been determined that USA CAPITAL and affiliated entities have committed fraud. In fact, since USA CAPITAL was committing fraud when they accepted monies invested by the JESSUPS, they clearly were taking money under false pretenses. As such, the JESSUPS should be made whole, rather than the court allowing them to make percentage payments.

funds were sold to COMPASS. The investors were to receive some of the benefit of their funds. After numerous court hearings and legal maneuvers, the JESSUPS still have not received any monies whatsoever for their investments, including the IRAs. The JESSUPS have a right to receive more information on this transaction.

plus a possible additional \$9 million) would be distributed. More than fourteen months have passed, and there has still been no funds provided to the JESSUPS.

1 To date, none of this money has reached the JESSUPS, retirees who invested their
2 IRAs, and live on a fixed income: the very class that was to receive some benefit of this
3 money.

4 The JESSUPS desire to know details of the transactions and the status of their
5 investments. They filed a request under the FREEDOM OF INFORMATION ACT
6 (FOIA), but received no genuine response. Exhibit "2" is the only page of information
7 received, and this fails to disclose the information the JESSUPS requested. The
8 JESSUPS are entitled to the information requested under Federal Law.

9 Therefore, the JESSUPS file this motion requesting information relating to the
10 distribution of funds as set forth in the Review Journal article, attached; and disclosure of
11 information relating to this matter under the Freedom of Information Act.

12 From the disclosure of information already presented to this court, it is clear that
13 USA CAPITAL was committing fraud long before the JESSUPS invested funds.
14 Therefore, they received money under false pretenses. The JESSUPS request the court
15 make a finding that monies were so received, and as such, investors such as the JESSUPS
16 are entitled to full refunds of investments, not promises of partial payments which have
17 never come.

18 FREEDOM OF INFORMATION

19 (5 U.S.C. § 552)

20 § 552. Public information; agency rules, opinions, orders, records, and proceedings

21 1. (a) Each agency shall make available to the public information as follows:

22 (1) Each agency shall separately state and currently publish in the Federal Register
for the guidance of the public--

23 (A) descriptions of its central and field organization and the established
24 places at which, the employees (and in the case of a uniformed service, the
members) from whom, and the methods whereby, the public may obtain
25 information, make submittals or requests, or obtain decisions;

26 (B) statements of the general course and method by which its functions are
channeled and determined, including the nature and requirements of all
27 formal and informal procedures available;
28

1 (C) rules of procedure, descriptions of forms available or the places at
2 which forms may be obtained, and instructions as to the scope and
contents of all papers, reports, or examinations;

3 (D) substantive rules of general applicability adopted as authorized by law,
4 and statements of general policy or interpretations of general applicability
formulated and adopted by the agency; and

5 (E) each amendment, revision, or repeal of the foregoing.

6 Except to the extent that a person has actual and timely notice of the terms thereof, a
7 person may not in any manner be required to resort to, or be adversely affected by, a
8 matter required to be published in the Federal Register and not so published. For the
purpose of this paragraph, matter reasonably available to the class of persons affected
thereby is deemed published in the Federal Register when incorporated by reference
therein with the approval of the Director of the Federal Register.

9 (2) Each agency, in accordance with published rules, shall make available for
10 public inspection and copying--

11 (A) final opinions, including concurring and dissenting opinions, as well
as orders, made in the adjudication of cases;

12 (B) those statements of policy and interpretations which have been
13 adopted by the agency and are not published in the Federal Register; and

14 (C) administrative staff manuals and instructions to staff that affect a
member of the public;

15 (D) copies of all records, regardless of form or format, which have been
16 released to any person under paragraph (3) and which, because of the
17 nature of their subject matter, the agency determines have become or are
likely to become the subject of subsequent requests for substantially the
same records...


18 In fact, further fraud was committed because the investors were informed
19 the monies would be invested in First Trust Deeds, which have a certain level of
20 security. However, the funds were not properly invested, but diverted to special
21 interests of the managers.

22 The Freedom of Information Act was enacted by Congress to supply
23 information to the person who requested the information. TWICE the JESSUPS
24 have provided a request to release information to USA CAPITAL.
25
26
27
28


CONCLUSION

Based upon the facts herein, the JESSUPS request (1) status of the proceeds to be disbursed; and (2) release of information requested through the Freedom of Information Act.

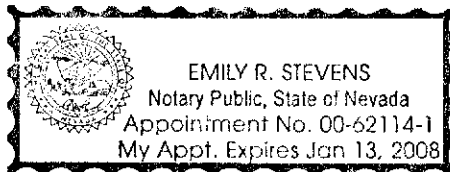

HARRY JESSUP


HELEN JESSUP

Sworn and subscribed to before me
this 12 day of June, 2007.



NOTARY PUBLIC



Judge approves initial payment of \$60 million

By JOHN G. EDWARDS

REVIEW-JOURNAL

Bankruptcy Judge Linda Riegle on Friday authorized the interim managers of failed USA Capital, a private lender that controls \$962 million in assets, to make an initial payment of about \$60 million to some investors.

The \$60 million represents about 6 percent of the money

invested with USA Capital, but the interim management team hopes to obtain approval at an Aug. 31 hearing to make regular monthly payments.

"It's a lot of money, but there's a lot more money to be distributed in the future," said Annette Jarys, an attorney representing USA Capital and

SEE PAYMENT PAGE 3D

Some \$9 million to be weighed later

► PAYMENT: Judge will consider another \$9 million later

CONTINUED FROM PAGE 1D

its interim managers.

USA Capital solicited investments from individuals interested in earning double-digit interest rates on loans secured by real estate. USA Capital had about 6,500 investors around the country when it filed for bankruptcy April 13.

The initial distribution will provide relief to retired investors who relied on USA Capital for virtually all of their income. Many of these investors are struggling to pay their home loans or rent, medical bills and other ongoing expenses.

Some investors bought fractional interests directly in short-term mortgage loans also known as trust deeds. Others invested in two trust deed funds managed by USA Capital.

The so-called direct lenders who own fractional interests in trust deeds will receive interest and principle payments that were received after the company filed for bankruptcy.

Also, about \$1.6 million will be mailed to investors in the USA Capital First Trust Deed Fund, a mortgage loan pool regulated by the Securities and Exchange Commission.

However, individuals who put money in USA Capital Diversified Trust Fund, a separate fund regulated by Nevada, will receive none of the initial distribution.

The Diversified fund held about \$550 million in assets, but most of its loans are non-performing or not paying interest. Diversified is owed \$108 million.

The loans were unsecured although the interim managers have obtained collateral in the form of partnership interests for some of the loans in the Diversified fund.

"Why is it our fund was looted, and the others weren't looted?" asked Marc Levinson, an attorney representing the committee for Diversified fund investors. "We ought not

USA Capital's interim managers plan to start mailing checks to investors in about two weeks.

be the sole victim of the street crime."

Levinson said USA Capital was a "Ponzi-like scheme" at least as far back as 2001. In a Ponzi scheme, money from new investors is used to pay earlier investors.

He mentioned the 2001 foreclosure of a Sheraton hotel near a Salt Lake City airport, which the Diversified fund financed. USA Capital later sold the hotel, but only some of the sales proceeds were returned to the Diversified fund.

USA Capital's interim managers plan to start mailing checks to investors in about two weeks. "We can only distribute money that came in on loans that are now paying," Riegle said.

At a hearing on Aug. 16, the judge will consider whether to release another \$9 million that was in the USA Capital collection account when it filed for bankruptcy.

The bankrupt private lender retains about \$25 million in cash that may be kept or paid out later to investors with disputed claims.

The disputes arise out of the monthly payments that USA Capital was mailing to investors monthly before the bankruptcy filing although many of the loans were past-due. Riegle later will decide whether to deduct overpayment sums from distributions made to these investors.

The alternative is to pay investors who were overpaid by USA Capital and then allow those who were shortchanged to sue other investors.

"The argument is that you would have to sue. That is incredibly expensive, frustrating and, I think, an unnecessary legal position," Riegle said.

(A) NOTE: USA USES MY MONEY TO PAY OTHER INVESTORS (MOB)

(B) PAYS ME INTEREST FROM MY OWN ORIG. \$200,000.

(C) CONVINCES THE COURT THAT MY PAYMENTS WERE ON NON-PERFORMING LOANS. (I.E. WE OWE THEM.)

(D) VIOLATION OF FOIA RULE. FRAUD, REPORTING FALSE EARNINGS, ETC. ETC. SHOULD GIVE JUDGE TO RE-CONSIDER & MAKE HARRY & HELEN JESSUP WHOLE.

Ex 11



Dear Mr. Jessup,

We appreciate your patience while we addressed your concern regarding your investment in the loans with USA Capital. After further research and analysis we have determined the following:

USA Capital Diversified Trust Deed Fund, LLC ("DTDF")

The DTDF was placed into bankruptcy on April 13, 2006. Since that time, a team of accountants has worked diligently to review the books and records and determine the correct accounting for the Fund. We regret to inform you that your prior statements did not reflect the continuing decline in the investments of the DTDF. The decline in the Fund did not happen in six months, but over the course of several years. As a Fund member, you own a portion of the Fund and your investment value increases or decreases based on the value of the Fund. Unfortunately, in this case, the value has declined.

While we have spent time and effort in determining the value at the filing date, we do not have accurate records to show you the changes in the Fund value over time. These records are being reconstructed, but as the process is a long and expensive one, it may be quite some time before additional information is available. We are working to rectify issues created by former management as well as attempting to collect enough money from former management your investment.

USA First Trust Deed Fund, LLC ("FTDF")

The August 4th Motion to Distribute Funds was approved. USA CM distributed funds to FTDF shareholders on August 31, 2006. This distribution to FTDF shareholders, of approximately \$1.2 million, will be treated as a return of original investment as most of the funds received were from the payoff of loans. Please refer to our website which has additional information pertaining to this distribution and is updated regularly on general information about the Bankruptcy process.

The FTDF loans should be collected or set to be sold and investors should recover a substantial portion of their monies.

We thank you for your inquiry regarding your investment and again appreciate your patience as we are working diligently to respond to investor questions in the order received. Please refer to our website www.usacapitalcorp.com for additional information and updates as well as to submit any future inquiries via our USA CM Account Statement Feedback Form. Thank you.

Sincerely,

Investor Relations
USA Commercial Mortgage Company

Ex "2"